

1                               IN THE UNITED STATES DISTRICT COURT  
2                               EASTERN DISTRICT OF MICHIGAN  
3 UNITED STATES OF AMERICA                               ) Bay City, Michigan  
                              ) September 12, 2019  
4               vs.                               ) 3:50 p.m.  
                              )   
5 SETH RYAN MOSE,                               )   
                              ) Case No. 19-20014  
6               Defendant.                               )   
                              )   
\_\_\_\_\_ )

7                               TRANSCRIPT OF SENTENCING  
8               BEFORE THE HONORABLE THOMAS L. LUDINGTON  
9                               UNITED STATES DISTRICT JUDGE

10 APPEARANCES:

11 For the Government:   ANCA I. POP  
                              United States Attorney  
                              Eastern District of Michigan  
12                               101 First Street  
                              Suite 200  
13                               Bay City, MI 48708

14 For the Defendant:   JOHN E. MELTON  
                              Melton Law Firm  
15                               3078 Main Street  
                              Marlette, MI 48453  
16                               (989) 882-1182

17  
18  
19  
20  
21 Court Reporter:       Carol M. Harrison, RMR, FCRR  
                              1000 Washington Avenue  
22                               Bay City, MI 48708

23                               Proceedings reported by stenotype reporter.  
24                               Transcript produced by Computer-Aided Transcription.  
25

P R O C E E D I N G S

(At 3:50 p.m., proceedings commenced.)

(Defendant present.)

THE CLERK: United States of America versus Seth Mose, Case No. 19-20014.

THE COURT: Good afternoon, counsel. If we could have your introductions, please.

MS. POP: Good afternoon, Your Honor. Anca Pop on behalf of the United States.

THE COURT: Ms. Pop.

MR. MELTON: John Melton for Mr. Mose.

THE COURT: Good afternoon, Mr. Melton, and good afternoon, Mr. Mose.

We are present for Mr. Mose's sentencing hearing. The Court's records reflect the fact that he entered a guilty plea before Judge Morris on May the 15th of this year, later accepted on report and recommendation by the Court. He entered his guilty plea to two counts.

Count One of the first superceding indictment charged him with the offense of distribution and receipt of child pornography. It is a Class C felony any offense under federal law punishable by a minimum term of five years in custody and up to 20 years in custody. The Court is also obligated to impose a term of no less than five years of supervised release following the term of custody and up to lifetime supervised

1 release. We're also statutorily authorized to impose a fine at  
2 sentencing of up to \$250,000.

3           The second offense to which he entered a plea was  
4 Count Three of the first superceding indictment charging him  
5 with the class A federal offense of coercion and enticement of  
6 a minor. The offense carries a minimum term of custody of 10  
7 years and up to lifetime custody. The Court is authorized to  
8 impose a term of no fewer than five years of supervised release  
9 and up to lifetime supervised release, and the statute also  
10 provides for a fine of up to \$250,000.

11           After Mr. Mose entered his guilty plea to the two  
12 offenses, he was interviewed by Probation Officer Burns, who in  
13 turn completed a presentence investigation report. Mr. Burns  
14 joins us today. Good afternoon, sir.

15           MR. BURNS: Good afternoon, Your Honor.

16           THE COURT: The report was completed in July and  
17 circulated for review.

18           Mr. Melton, with the exception of the one guideline  
19 variable to which exception was taken and that we will give  
20 attention to, any additions or corrections to the report that  
21 have not already been resolved with Mr. Burns?

22           MR. MELTON: No, no, Your Honor.

23           THE COURT: There was a challenge to the five-level  
24 increase for the -- based on the distribution in exchange for  
25 valuable consideration. The objection was carefully explained

1 by defense counsel in the objection itself. Separately the  
2 Government has completed a recitation of a particular  
3 transaction and it's included in the sentencing memorandum, but  
4 as a result of the fact that it -- it is a bit difficult for  
5 the Court to read, I've had a brief opportunity, along with  
6 defense counsel, to see if we could have that memorialized in  
7 some additional way. Your suggestion, ma'am?

8 MS. POP: Yes, Your Honor. We can either introduce  
9 it through me reading it or we have the case agent here who  
10 could get on the stand and present this dialogue between the  
11 defendant and another individual and the trade of child  
12 pornography.

13 THE COURT: Would you like to take one part and the  
14 agent the other part?

15 MS. POP: Sure.

16 THE COURT: All right. I -- there's no particular  
17 need to have anyone sworn or to use the witness stand in this  
18 situation. Can you explain to us contextually what this  
19 exchange was and how it was located and identified.

20 MS. POP: Yes, Your Honor. This was taken from an  
21 extraction report from the defendant's cell phone. The  
22 extraction report includes chat conversations from a Kik app,  
23 which is a chat room application and social media, and this  
24 particular snippet of the conversation focuses on the dialogue  
25 between the defendant who is identified with the user name

1 Mr. Dominic Black, and the user dannyjacobs92 Dee Jay.

2           There's also images of child pornography that were  
3 traded during this chat, and I believe we also have those  
4 images, the files themselves.

5           THE COURT: Any objection to the method of at least  
6 memorializing the materials?

7           MR. MELTON: No, Your Honor.

8           THE COURT: If you would, please.

9           MS. POP: So I think I will probably read the  
10 defendant's part, and I will have Agent Zapolski or Officer  
11 Zapolski read dannyjacobs92's part.

12           And I know in the sentencing memorandum, I provided  
13 snippets of this conversation and instead of the whole  
14 conversation that is a little bit longer, but for purposes of  
15 this hearing we will quickly go through all of it. It  
16 shouldn't be long.

17           THE COURT: All right. Thank you.

18           MS. POP: And we'll start with the conversation, this  
19 is on March 3rd, 2018 at 10:30 p.m. I believe this would be  
20 Michigan time.

21           (Chat conversation read as follows:)

22           OFFICER ZAPOLSKI: Yes.

23           Dannyjacobs: Hey, bro. Read your post on forum.  
24 I'm guessing you don't have kids yourself, you're just wanting  
25 to get involved with others that do, question mark.

1 MS. POP: Yeah, that's right actually. You'd be  
2 amazed the number of people who don't seem to understand that.

3 OFFICER ZAPOLSKI: LOL.

4 I'm not from anywhere near so was hoping to trade  
5 with someone, a frowny face.

6 MS. POP: Ah okay. I don't do much trading anymore.

7 OFFICER ZAPOLSKI: Fair enough. I'm sick of the same  
8 old shit that's okay but -- sorry, that's out there so I have  
9 some pics of my girl but yeah trying to make the deal sweet for  
10 both sides obviously.

11 MS. POP: Exactly. That's why I got out of doing  
12 trades. Just same stuff over and over again. I'd rather do  
13 irl now though. LOL.

14 OFFICER ZAPOLSKI: It's fun.

15 MS. POP: Oh I bet it is. Making me jealous.

16 OFFICER ZAPOLSKI: No judgment. What age you like?

17 MS. POP: Twelve or less. You?

18 OFFICER ZAPOLSKI: Yep, a bit less actually. Ten to  
19 12, they're developing and have tight bodies and little  
20 titties, but they take a lot of convincing. Younger is a lot  
21 more naughtier and riskier but easier.

22 MS. POP: That's very true. I had the option I  
23 got -- if I had the option, I'd get like four to five. How old  
24 is your girl?

25 OFFICER ZAPOLSKI: Tad older than that.

1 MS. POP: Still not bad at all. How much do you do  
2 with her?

3 OFFICER ZAPOLSKI: Not much. She's at that age where  
4 she is likely to tell.

5 MS. POP: Okay. That makes sense.

6 OFFICER ZAPOLSKI: But there's some pics of her.  
7 There's also my very, very young niece I squirted in just so I  
8 could have the satisfaction of having done that. And there's a  
9 12-year-old I'm chatting with that sends me vids occasionally.

10 MS. POP: Very nice. The niece sounds like what I'm  
11 really hoping for. You manage to fit a good amount of you in  
12 or just the tip?

13 OFFICER ZAPOLSKI: Would you like to see?

14 MS. POP: Hell yeah, if you're willing to share.

15 OFFICER ZAPOLSKI: Got to warn you it's very young.

16 MS. POP: That's not an issue at all to me.

17 OFFICER ZAPOLSKI: Do you still have anything left to  
18 trade to prove you're genuine?

19 MS. POP: I may. I'd have to look for it though.

20 OFFICER ZAPOLSKI: Okay. But this stays between us.

21 MS. POP: Yeah, no problem.

22 OFFICER ZAPOLSKI: Danny then sends an image file --  
23 two image files.

24 MS. POP: Very nice.

25 OFFICER ZAPOLSKI: Turn you on?

1 MS. POP: Yeah, just a bit. LOL.

2 OFFICER ZAPOLSKI: Danny then sends another image  
3 file.

4 MS. POP: Mr. Dominic Black, defendant, sends an  
5 image file.

6 OFFICER ZAPOLSKI: That pic is a bit of photo magic  
7 though. You can't get the whole thing in so it's just resting  
8 on her ass cheeks to look like it fit in, LOL.

9 MS. POP: That's all I was able to find close to  
10 that.

11 (Reading of chat concluded.)

12 THE COURT: Any other argument concerning the  
13 applicability of 2G2.2?

14 MR. MELTON: Mr. Mose's explanation is that in this  
15 world, that fortunately he doesn't want to belong to anymore,  
16 that this -- the intent of that was to make sure you're not  
17 talking to a cop and have credibility.

18 The intention really wasn't to exchange anything in  
19 exchange for valuable consideration. It's just the intent of  
20 that is to -- this is what they do in this world, to make sure  
21 you're not talking to a -- give each other credibility, make  
22 sure they're not talking to an undercover police officer, so  
23 that's his explanation for what the intent was, not to exchange  
24 anything. Something -- you know, something for something else.  
25 It was just basically like a test.



1 THE COURT: Which would be, in this case, an  
2 exchange.

3 MR. MELTON: Pardon me?

4 THE COURT: Which would, in this case, be an  
5 exchange.

6 MR. MELTON: That's what it -- that's what it  
7 appears, Judge, but it is -- Mr. Mose's explanation is that  
8 that's really -- the intent of it is just to prove the other  
9 person's not a cop. If you -- I guess if you're agreeing to  
10 talk about this stuff, then apparently you're not a cop, so  
11 that's his explanation.

12 THE COURT: Thank you. Government dispute the legal  
13 argument?

14 MS. POP: Well, Your Honor, this chat shows their  
15 discussion about trading on two different occasions. One is  
16 right at the beginning where the other user is asking him to  
17 trade. They're talking about how trading just involves the  
18 same pictures over and over, and then there's another request  
19 to trade to show that he is genuine.

20 The other user already sends him three images before  
21 the defendant proves he's genuine, and I believe this trade  
22 does not pertain to being law enforcement or not because the  
23 other user has already sent images without any confirmation of  
24 not being law enforcement, but the trade is child pornography  
25 in exchange for other child pornography.

1           THE COURT: Indeed. It meets each of the elements  
2 that's described, which is an agreement, either explicitly or  
3 implicitly, in this case explicitly, for the knowing  
4 distribution of child pornography for the purposes of obtaining  
5 something of valuable consideration from the other party, which  
6 in this case was an exchange of pornography. I believe the  
7 five-level increase is appropriately scored.

8           With the multi-count adjustment, it increases the  
9 guideline range. I believe that it's correctly scored. Do you  
10 have any arguments to the contrary, Mr. Melton?

11           MR. MELTON: No.

12           THE COURT: Is the Government satisfied with the  
13 report?

14           MS. POP: Yes, Your Honor.

15           THE COURT: And, Mr. Mose, I just want to confirm,  
16 you've had a chance to read it?

17           THE DEFENDANT: Pardon?

18           THE COURT: Have you had a chance to read the report?

19           THE DEFENDANT: Yes, I have.

20           THE COURT: Does it appear accurate and complete to  
21 you?

22           THE DEFENDANT: There were a couple of areas that I  
23 was -- that were wrong, but they were clerical, so it mentioned  
24 that I'm divorced, but my ex-wife and I never filed for  
25 divorce, things like that, things that don't affect the case.

1 THE COURT: Do you remain married?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: The report should reflect that then.

4 Were there any other points that needed attention, sir?

5 THE DEFENDANT: It mentioned at one point that I had  
6 three dependencies, but I only have my son and my -- well, my  
7 wife's daughter that I pay child support for. I don't pay for  
8 three dependents, unless it's counting myself.

9 THE COURT: Okay.

10 THE DEFENDANT: It also stated that --

11 THE COURT: Let's stop there for just a minute. Any  
12 questions on that point, Mr. Burns?

13 MR. BURNS: Your Honor, if I recall, I received a  
14 record -- yes, I did -- for the divorce was finalized in  
15 Saginaw County in 2011, and we do have record of that.

16 THE DEFENDANT: Okay. I -- the only reason I say  
17 that I wasn't is I never filed. I never signed divorce papers  
18 myself so --

19 MR. BURNS: Does not deny the fact that the defendant  
20 is divorced.

21 THE COURT: Okay.

22 THE DEFENDANT: I was not aware of that.

23 THE COURT: And with respect to the dependent --  
24 dependents, did you hear his explanation, Mr. Burns?

25 MR. BURNS: I did. There are three open cases right

1 now for child support that are out there against him.

2 THE DEFENDANT: If the third -- oh, I'm trying to  
3 think -- if the third case is for a Madelyn, Maddie or Madelyn,  
4 I did a paternity test which showed she was not my child, and  
5 if it's for an Adam, he was adopted into a family by the  
6 name -- and now goes by the name of Samuel.

7 I was living with a girlfriend at the time of being  
8 arrested, and she was pregnant, but I filed a paperwork for --  
9 she filed paperwork for an adoption and I released custodial  
10 rights to allow that to happen.

11 MR. BURNS: That may be, Your Honor, but as of the  
12 completion of this report, there were three open cases that he  
13 was paying -- or supposed to be paying on for child support.

14 THE COURT: That will remain.

15 Any other issues, sir?

16 THE DEFENDANT: My only concern was the statement  
17 that was made was the age preference, that it stated seven to  
18 eight years old. I know the difference between wanting to be  
19 with a 7- and 8-year-old and a 12-year-old's not much, but in  
20 the prison system it makes a big deal with other inmates, and  
21 the treatment I'll receive while incarcerated and afterwards.  
22 I was concerned with that because people had looked up my  
23 paperwork already and were incredibly violent towards me.

24 THE COURT: Specifically the information is located  
25 where in the report?

1 THE DEFENDANT: I'm not exactly sure, Your Honor.

2 THE COURT: And when you say people were looking  
3 up --

4 THE DEFENDANT: They term it as "running your  
5 plates", and what they do is they go online and they pull up  
6 your paperwork, and they -- they read through your paperwork.  
7 Your -- in certain facilities you actually have to present  
8 paperwork to be allowed to go outside, and the wording in  
9 certain paperwork can actually cause you to be hurt by other  
10 people or threatened, bribed or things like that.

11 I was just -- I know it's not much of a difference  
12 with the act of what I did, but for people in that world, it  
13 makes a big difference to them in the system.

14 THE COURT: I do recall reading it. I'm actually  
15 trying to locate the information and the source of the  
16 information in the report. Are you familiar with it,  
17 Mr. Melton?

18 MR. MELTON: Pardon me?

19 THE COURT: Are you familiar with what he is -- the  
20 location of --

21 MR. MELTON: I think I remember seeing it in the  
22 report. I'm trying to locate it.

23 THE DEFENDANT: I just -- because when I was asked by  
24 law enforcement, if I remember correctly, I believe I said that  
25 my preference was 10 to 12 years of age.

1 MR. MELTON: In paragraph 16, last sentence.

2 THE COURT: The last sentence in paragraph 16?

3 MR. MELTON: Yes.

4 THE COURT: Which in my report was, "He stated he  
5 masturbated to child pornography and his youngest age  
6 preference was seven or eight years old."

7 THE DEFENDANT: Yes. That's -- I had viewed and  
8 masturbated, that's correct, to the age, but what the age  
9 preference was not -- I stated to the officers that it was 10  
10 to 12, but I had looked at as young as eight years old when  
11 masturbating.

12 THE COURT: So do you think the officers recorded it  
13 incorrectly?

14 THE DEFENDANT: I'm not sure what happened honestly,  
15 Your Honor.

16 THE COURT: And was it the officer's description of  
17 the communication by the defendant?

18 MR. BURNS: Yes. Ms. Pop can probably speak better  
19 to this but I believe this was all in the discovery material.

20 MS. POP: Yes, Your Honor. I believe there's a  
21 recording of the interview, but also there was a report written  
22 about this interview, and there's also additional chats where  
23 he particularly speaks about raping eight-year-olds, so I don't  
24 believe it would be inaccurate either way.

25 THE COURT: The report will remain as written.

1 Anything else, sir?

2 THE DEFENDANT: No, Your Honor. I don't believe  
3 there was.

4 THE COURT: All right. The Government satisfied with  
5 the report?

6 MS. POP: Yes, Your Honor.

7 THE COURT: I believe we have already confirmed that.

8 Mr. Melton, any remarks that you'd like to make on  
9 Mr. Mose's behalf?

10 MR. MELTON: Well, Your Honor, as I said -- as I  
11 stated in the sentencing memorandum, some clients have  
12 different reactions when it comes to sentencing and pleading  
13 guilty. For Mr. Mose, this was a big relief for him. He feels  
14 there was no way he was ever going to go to trial under any  
15 circumstances. He wanted to unburden himself of this. He --  
16 that's why he immediately, when he was approached by law  
17 enforcement, from my understanding, from what I have and what  
18 he's told me and the discovery I had, he's turned over  
19 everything immediately.

20 He didn't contest anything. He gave them the  
21 computers, the phone. He admitted everything right away, and  
22 he tells me that he -- when he did that, he felt a great sense  
23 of relief to finally have gotten this dark secret out, and too  
24 bad he didn't do it before he was acting out on it, but I think  
25 it was when he was -- when he did do this, act out and

1 victimize that 12-year-old girl, I think that's when he  
2 realized this is not -- this isn't fantasy. This is real and  
3 he's got to get some help. Unfortunately, he didn't know what  
4 to do at that point.

5           He feels -- the only thing he's ever told me, and his  
6 family is here as well, he's told them, is what a great sense  
7 of remorse and relief he has that he's finally been exposed.  
8 He -- his prior attorney tried to get a proffer with the  
9 Government and they weren't interested. This is fine. I  
10 understand. I can understand why.

11           He asked me to, even if he wasn't going to get any  
12 consideration, if he could talk to an officer to see if there's  
13 anyway he could possibly help, even if the judge would never  
14 know about it, and even if he didn't get any consideration  
15 towards his sentence.

16           He's known for a long time that this is -- that this  
17 is wrong and that he needed help, he needed out of this, and I  
18 think that the fact getting caught, and he knows he's going to  
19 pay a severe penalty no matter what the Court does here today,  
20 he knows -- he feels at least -- at least he's out of this  
21 world, out of this situation.

22           I know everybody says they express -- they feel  
23 remorse when they're being sentenced, but he's expressed  
24 remorse from the very beginning. I think from the very  
25 beginning he was encountered by law enforcement. He had a



1 right to remain silent. He didn't do it, he didn't take it.  
2 He confessed to his mother. He confessed to other members of  
3 his family. He didn't have to do that. He could have said,  
4 you know, hey, talk to my lawyer, get search warrants. He  
5 didn't do any of that. He just said take it, you got -- you  
6 caught me, thank God, I'm out of this, and I've been exposed,  
7 and he -- it was a big -- I think it was a big relief off of  
8 his shoulders.

9           So, you know, I hope the Court would -- would take  
10 that into consideration the fact that he was so cooperative,  
11 and everything he's done, I think since he was encountered, I  
12 think corroborates that, Judge. That he feels remorse. Like I  
13 said, he didn't -- he didn't ask for -- didn't ask for a lawyer  
14 or anything, and he had a right to do that, and he knew he had  
15 a right to do that.

16           But he wanted to confess, he wanted to get it off --  
17 he wanted to get it off -- get that weight off of him, and he  
18 wanted to confess about the girl, and he wanted to -- and he  
19 feels horribly about that. He tells me that this girl was  
20 victimized twice in that situation. She was victimized by the  
21 guy that introduced them. He told her to, hey, lie about your  
22 age because, you know, maybe -- maybe otherwise he might be  
23 worried about this.

24           So there was some relationship going on with this  
25 other person she was with as well, and subsequently he feels

1 terrible about that, that he facilitated, and he realized  
2 afterward that he victimized this girl. This girl was  
3 victimized twice, and he helped facilitate that, and he feels  
4 remorseful about -- remorseful about that.

5           And he understands he also had an encounter with  
6 his -- to maybe tell you about with one of his roommates. He  
7 found out after the search warrant -- not the search warrant,  
8 but after he'd been caught and he turned everything over, after  
9 the -- his roommate said that she'd been -- he or she had been  
10 a victim of child trafficking and that had been victimized in  
11 some way in this -- in this -- in this arena. And then  
12 realized, you know, this is not a -- he understands this is not  
13 a -- made him realize -- he told me this is not a victimless  
14 crime. This is not just looking at images on a computer  
15 screen. This creates a market for something that leads to the  
16 exploitation of children, and he explains to me that he  
17 understands that.

18           So really nothing else I can say. I know he wants to  
19 speak on his own behalf, Judge. Thank you.

20           THE COURT: Thank you very much. Appreciate your  
21 remarks.

22           Mr. Mose, anything that you would add? I'd  
23 appreciate it if you would use the podium please.

24           THE DEFENDANT: Pardon?

25           THE COURT: If you would use the podium, I'd

1 appreciate it.

2 THE DEFENDANT: Can I get some tissue, please? I  
3 inherited my mother's nature of crying. Thank you.

4 Originally -- originally I had written something I  
5 wanted to read, but I just feel like it's just trying to make  
6 what I did into an excuse and trying to make the word "sorry"  
7 to be enough, and it's not right.

8 Like my lawyer said, Mr. Melton, there's a  
9 12-year-old -- well, now 17-year-old girl's out there in the  
10 world who is suffering because of what I and another man did.  
11 I didn't know she was 12, but it doesn't change what I did, and  
12 there's -- there's no way I could ever make up for that, and I  
13 know that.

14 I remember when the officers came, I couldn't -- I  
15 couldn't stop telling them. I had to. That day I called my  
16 mother because I couldn't live with this anymore. I've wanted  
17 to quit so many times. Mr. Burns mentioned it in my PSI that I  
18 knew this was wrong, that's why I kept deleting things, and  
19 he's right. But I don't know why I kept going back to it. I  
20 didn't want to, but I did. Again, there's no excuse for it.

21 I'd give anything to go back, take it all away, not  
22 because of what's going to happen to me -- I did something  
23 wrong and I should be punished -- but because of the child  
24 that's out there and the fact that I could have reported the  
25 abuse she was going through and I didn't. The fact that I

1 could have reported every single one of the people that I came  
2 across and I didn't. I helped them, I encouraged them, and I  
3 was a part of it. There's no excuse.

4 I have a 10-year-old son. I don't have a right to be  
5 this person that I was. I'm a parent. I'm supposed to protect  
6 children, not hurt them. I want help. I've wanted help for so  
7 long, and I've been too scared to ask for it. I don't have an  
8 excuse. Now my family knows, you know, the whole world can  
9 know, and I need that because there's no excuse. There's no  
10 hiding anymore. I don't have to. I can tell my mom I'm  
11 struggling, please help me.

12 I just wish five years ago I knew I could have said  
13 that. I should have known. She's my mother. She's always  
14 been there for me. He's my brother. He's been there for me,  
15 and I didn't trust him, and because of that, I hurt someone.  
16 And more than her, there are all of those children that are out  
17 there that the only reason they were victimized is because  
18 people like me looked at it, that there's people paying for it.

19 I've lived with them. I spent seven months with a  
20 man who did things. I've had nightmares about the things he  
21 told me, and I used to talk to these people like they were my  
22 friends. I wish I could take it all away. I do. Again, like  
23 I said, it's not because of what's going to happen to me. It's  
24 because somewhere there's a 17-year-old girl who's never going  
25 to be the same, and I've seen the face of that child.

1 THE COURT: You have described --

2 THE DEFENDANT: Pardon?

3 THE COURT: You have described, and there are  
4 described in the context of the presentence reports, any number  
5 of circumstances where the gravity of the conduct that you have  
6 just outlined here could have been stopped, where you made  
7 independent judgments to continue. How do you describe your  
8 inability to control any kind of impulsive bad behavior?

9 THE DEFENDANT: I don't know how to explain it,  
10 because anyway I try to explain it would just sound like I'm  
11 making an excuse. I don't know why I didn't stop. I honestly  
12 don't. I wish I had.

13 THE COURT: I appreciate your remarks.

14 THE DEFENDANT: Pardon?

15 THE COURT: I said, I appreciate your remarks. Thank  
16 you.

17 Government have any remarks?

18 MS. POP: Yes, Your Honor. The Government has  
19 detailed a lot of the circumstances of the case in the  
20 sentencing memorandum, but with regard to the current claim  
21 that he did not know this victim was 12-year-old, our evidence  
22 proves the contrary; not only the victim has been interviewed  
23 and stated that her profile listed her correct age, but also  
24 statements of the defendant to, again, other Kik users  
25 detailing in actually very great detail what had happened with

1 a 12-year-old based on the interview with the girl and with the  
2 defendant -- his detailing what happened with her and basically  
3 he's saying that he messed around with a 12-year-old and then  
4 gives all of the details that we have about the offense to a  
5 Kik user in 2018 in June, so he knew.

6 He provided extensive detail, and there's other  
7 circumstances when he provides just about the same amount of  
8 detail about the rape of an 8-year-old. We have not been able  
9 to identify that person, but we have identified a person he was  
10 exchanging these messages with, and identified a location where  
11 they were planning to take a girl if they were able to kidnap a  
12 young girl and take her there for sexual exploitation. This is  
13 all based on the detailed conversations and messages that he  
14 was exchanging with others.

15 THE COURT: Thank you.

16 I don't see any particular need to further underscore  
17 the gravity of the misconduct involved in bringing you into  
18 court, Mr. Mose. You're very concerning from a pure public  
19 safety perspective. You appear to have no moral ability to  
20 govern your behavior, and the sentence needs to reflect and  
21 underscore the public safety issues that you reflect.

22 We gave earlier attention to the Sentencing Reform  
23 Act and specifically the advisory guidelines that apply to  
24 Mr. Mose. I've also very briefly sought to underscore the  
25 primary consideration of the Court in imposing sentence. We

1 commit the gentleman to the custody of the Bureau of Prisons  
2 for a term of 240 months with respect to Count One and 290  
3 months for Count Three to run concurrently.

4           Upon Mr. Mose's release from custody, he is to be  
5 placed on supervised release for a term of five years to run  
6 concurrently with respect to both offenses.

7           He's ordered to pay the statutory assessment of \$200.  
8 He is to pay the Justice for Victims Trafficking Act assessment  
9 of \$5,000. It's due presently. We'll waive the imposition of  
10 a fine, costs of incarceration and costs of supervision. He  
11 does not have the financial resources to reimburse the Federal  
12 Government.

13           He's ordered to pay restitution payable to the clerk  
14 of court for disbursement to the victims that will be  
15 identified and in the amounts that will be identified for a  
16 combined restitution amount of \$18,000, which is also due  
17 presently.

18           Penalties and interest will not accrue on the  
19 balance. The Court will inform the clerk of the restitution  
20 beneficiaries and the addresses to be included in the judgment  
21 of sentence.

22           Drug testing is ordered. The defendant is also to  
23 cooperate with the collection of a DNA sample as directed by  
24 his probation officer. While he is on supervision, he is to  
25 abide by the standard conditions of supervised release that

1 have been adopted by the United States District Court for the  
2 Eastern District of Michigan. He's also to comply with the  
3 following additional special conditions:

4           He's to comply with the requirements of the Sex  
5 Offender Registration Notification Act as directed by his  
6 probation officer, Bureau of Prisons or any state offender  
7 registration agency in the location where he's residing,  
8 working or a student, or where he was convicted.

9           He is to participate in a sex offense specific  
10 treatment program and follow the rules and regulations of the  
11 programs. He is not to have direct contact with any child that  
12 he knows or reason to know to be under the age of 18, including  
13 his own children, without permission of the probation officer.  
14 Direct contact includes any written communication, in-person  
15 communication or physical contact. It does not include  
16 incidental contact during the ordinary course of daily  
17 activities in public places.

18           He is to participate in the Computer Internet  
19 Monitoring Program administered by the United States Probation  
20 Department. He's also to abide by the monitoring program  
21 participation agreement that is in effect at the time of his  
22 supervision. He's to comply with any amendments to the program  
23 during that term of supervision.

24           He is to notify anyone that he's dating or intending  
25 to marry with a minor child under the age of 18 of the fact of



1 his conviction.

2 He is not to purchase, sell, view or possess images  
3 in any form of media or live venue that depict pornography,  
4 sexually explicit conduct, child erotica or child nudity. He  
5 is not to patronize any place where that material or  
6 entertainment is available.

7 He is to have his employment preapproved by the  
8 Probation Department. He is not to be employed at or  
9 participate in any voluntary activities that involve contact  
10 with minors under the age of 18 or adults with disabilities  
11 without prior approval of his probation officer.

12 He is to have all of his residences preapproved by  
13 the Probation Department and he must not provide care or live  
14 in a residence where children under the age of 18 or adults  
15 with disabilities also reside without prior approval of his  
16 probation officer.

17 He is to submit to periodic polygraph testing at the  
18 direction of his probation officer as a means to insure that  
19 he's in compliance with the requirements of supervision and  
20 treatment.

21 He is not to have contact, directly or indirectly,  
22 with any victim or witness involved in this case unless  
23 approved by the probation officer.

24 He is not to incur any new credit charges or open  
25 additional lines of credit without the approval of his

1 probation officer. He is to notify the Court of any changes in  
2 his economic circumstances that might affect his ability to pay  
3 any of the financial penalties.

4 He is to provide his probation officer with access to  
5 any requested financial information and authorize the release  
6 of any financial information. Probation Office may share any  
7 of the financial information with the US Attorney's Office.

8 Mr. Melton, any questions concerning the terms of the  
9 sentence or objections that we've not had an earlier chance to  
10 give attention to?

11 MR. MELTON: No, Your Honor. Thank you.

12 THE COURT: Any from the Government?

13 MS. POP: No, Your Honor. We would just ask that the  
14 forfeiture be placed on the record. I believe the defendant  
15 has entered -- there's a consent that was filed last week for  
16 the property that contained child pornography to be  
17 forfeited --

18 THE COURT: Yes.

19 MS. POP: -- and we would like that also to be  
20 included in the defendant's judgment, and we would also move to  
21 dismiss Count Two of the indictment.

22 THE COURT: The forfeiture information was furnished  
23 to Ms. Winslow. We have that information. It will be included  
24 with the judgment of sentence.

25 The dismissal of the additional charges, which will

1 be without objection from the defense --

2 MR. MELTON: That's correct.

3 THE COURT: -- and with the Court expressly noting  
4 our acceptance of the plea arrangements -- plea agreement in  
5 the case.

6 One concluding matter is the appeal waiver. It  
7 provides that the defendant would waive any right that he would  
8 have to appeal his conviction on any grounds. It further  
9 provided if the defendant's sentence of imprisonment did not  
10 exceed 293 months, the defendant would also waive any right  
11 that he had to appeal his sentence on any grounds.

12 Have you had a chance to review that with Mr. Mose,  
13 the appeal waiver?

14 THE DEFENDANT: Yes.

15 THE COURT: Any additional business, Mr. Melton?

16 MR. MELTON: No, Your Honor.

17 THE COURT: Ms. Pop?

18 MS. POP: No, Your Honor.

19 THE COURT: Good luck, Mr. Mose. Record's closed.

20 (At 4:34 p.m., court recessed.)

21

22

23

24

25

\* \* \* \* \*

C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
from the proceedings in the above-entitled matter.

*Carol M. Harrison*

Date: 5-19-2020

Carol M. Harrison, RMR, FCRR  
Official Court Reporter  
United States District Court  
Eastern District of Michigan  
1000 Washington Avenue  
Bay City, MI 48708